

EXHIBIT JJ

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, et al.
Debtor,

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO
as representative of
THE EMPLOYEES RETIREMENT SYSTEM OF
THE GOVERNMENT OF THE
COMMONWEALTH OF PUERTO RICO,
Debtor.

Two Vesey Street
New York, New York
June 4, 2019 - 9:36 A.M.

EXAMINATION BEFORE TRIAL of LUIS COLLAZO
RODRIGUEZ, the Witness herein, taken by the
attorneys for the respective parties, pursuant to
Notice, held at the above-stated time and place,
before Melissa Leonetti, RPR, a Notary Public of the
State of New York.



1 L. COLLAZO

2 testified as follows:

3 EXAMINATION BY

4 MATTHEW PAPEZ, ESQ.:

5 Q. Good morning, Mr. Collazo.

6 A. Good morning.

7 Q. Could you state your name for the record,
8 please.

9 A. Luis Manuel Collazo Rodriguez.

10 Q. We have an interpreter here for you
11 today, and you should feel free to ask for her
12 assistance as much as you would like.

13 A. Very well.

14 Q. However, if you don't need her assistance
15 for any question or -- we can proceed in English and
16 that may be quicker.

17 A. Perfect.

18 Q. Okay. So why don't we do this. I will
19 ask the questions in English, and if you understand
20 the question in English, answer it and let's stop
21 with the interpretation for a sec.

22 I will ask questions in English. If
23 you understand in English, go ahead and answer.
24 If you answer in English, that's great. If you
25 need to answer in Spanish, please do and we'll get



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2 Is that fair?

3 A. I understand, yeah.

4 Q. If you don't understand a question that I
5 ask, just let me know and I will try to rephrase it.

6 A. That's what I would do.

7 Q. If you answer one of my questions, I'm
8 going to assume that you understood the question.

9 A. Okay.

10 Q. For the sake of the court reporter, we
11 need to be careful not to talk over each other.
12 That may be a little difficult with the interpreter,
13 but we'll both do the best we can. Okay?

14 A. Perfect.

15 Q. What is your position at ERS?

16 A. Well, currently I'm the administrator of
17 the system of retirement, and executive director of
18 the Committee for Retirees since 2018, August.
19 Retirement Board since August of 2018.

20 Q. How old are you?

21 A. 33 years old.

22 Q. When did you start working for ERS?

23 A. In April of 2014 -- of 2014.

24 Q. Please give me just a very brief
25 descriptions of the positions you have had at ERS

1 L. COLLAZO

2 since 2014.

3 A. Okay. Well, as I mentioned, in April of
4 2014, I started as a lawyer in the division of
5 retirement. I was there representing the retirement
6 funds in terms of the Administrative Board for
7 Retirement and in terms of the courts of Puerto
8 Rico, and other legal matters which were requested
9 of me.

10 I was working for three years as a
11 lawyer in the legal division until the date of the
12 1st of May of 2017, which is when I started
13 working for the Retirement Board, after having
14 been confirmed by the Retirement Board.

15 MR. PAPEZ: Lodge a translation
16 objection. I don't think the witness said
17 Retirement Board. I think he said retirement
18 system, ERS.

19 A. The system of retirement. You're
20 correct. May 1, 2017. So then in August of 2018, I
21 was named to the Retirement Board as the executive
22 director.

23 Q. Okay. Just so I understand, in May of
24 2017, you began working for the -- I'm sorry.
25 That's not correct. Let me start over.

1 L. COLLAZO

2 Tell me again the position you started
3 on May 1, 2017.

4 A. Administrator of retirement systems.

5 Q. I see. And then you still have the title
6 of administrator of retirement systems today?

7 A. Correct.

8 Q. And in addition, now you are also the
9 executive director of the Retirement Board?

10 A. Correct.

11 Q. When you say administrator of retirement
12 systems, are you referring to ERS, the JRS, and the
13 TRS?

14 A. When I refer to my role as administrator
15 of retirement systems, I'm referring to ERS and JRS.
16 However, on the other hand, as the executive
17 director of the board of retirement under that board
18 is also TRS.

19 Q. My questions today are going to be about
20 ERS unless I broaden to cover TRS or JRS.

21 A. Very well.

22 Q. When you became the administrator of the
23 retirement systems in May of 2017, did you stop
24 providing legal services at that point?

25 MR. POCHA: Objection to the form of



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2 could have had a conversation with some member of
3 the staff that I don't remember right now.

4 Q. When you reviewed documents, did you --
5 what types of documents did you review?

6 A. Well, there were so many documents.

7 Q. Were they all provided by your lawyers?

8 A. Correct, the ones that were offered to me
9 by my lawyers.

10 Q. Did you ask to see any other documents
11 other than what were provided by your lawyers?

12 A. No.

13 Q. All right.

14 I want to see if we can agree on just
15 some basic background facts about ERS. First of
16 all, ERS, before June of 2017, administered a
17 pension plan with three different benefit
18 structures; is that right?

19 MR. POCHA: Objection to the form.

20 A. Well, so far as I understand, there's two
21 main structures, one which is defined and the other
22 one which is for -- one is for defined benefits and
23 the other one is for defined contributions.

24 When I refer to defined benefits, I'm
25 referring to Law 447 and Law 1. And when I refer



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2 to defined contributions, I'm referring to the
3 reform number 2000 which later passed into the
4 defined contributions for Law 3 from 2013.

5 Q. I've also seen references to a hybrid
6 program. And again, this is just background. It
7 doesn't really matter.

8 Is there a hybrid program?

9 A. Well, yes, correct. Well, it used to
10 exist from the 1st of July of 2013 to the 30th of
11 June of 2017.

12 Q. All right. I'm going to use the same
13 nomenclature that you did and refer to the system or
14 the Law 447 or Act 446 as the defined benefit
15 portion of the program.

16 For the defined contribution program,
17 I'll call that System 2000, if that's okay with
18 you.

19 A. Okay.

20 Q. All right.

21 Now, before June of 2017, I understand
22 that ERS would receive employer contributions from
23 various sources; is that correct?

24 MR. POCHA: Objection to the form.

25 A. He was saying employer benefit

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2 contributions. Yes. Before the 30th of June of
3 2017, ERS received employer contributions from
4 corporations and especially from corporations and
5 municipalities.

6 Q. Before June 30 of 2017, was the
7 Commonwealth also obligated to make employer
8 contributions to ERS?

9 MR. POCHA: Objection. Calls for a
10 legal conclusion.

11 A. It did have the requirement of making
12 employer contributions except that it didn't arrive
13 at -- it didn't get to ERS. It would go directly to
14 an account that was within the Department of
15 Treasury.

16 Q. Just so I understand, for the
17 Commonwealth's employer contributions, they would
18 not actually transfer funds into ERS but would
19 instead make accounting entries at the Department of
20 Treasury?

21 MR. POCHA: Objection to the form.

22 Also scope. If you could identify a time
23 period.

24 Q. Before June 2017, do I understand you to
25 be saying that the Commonwealth's employer

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2 contributions would not actually result in funds
3 being transferred into ERS?

4 MR. POCHA: Objection. Outside the
5 scope.

6 A. So far as I understand, that is correct.

7 Q. Before June 2017, would ERS invest its
8 revenues in investment assets?

9 MR. POCHA: Objection to the form.

10 A. Yes, some assets were invested in
11 different types of investments.

12 Q. Okay. Was one of the purposes of the
13 investment of the assets in order to build up a fund
14 to help pay pension benefits?

15 A. Yes. So far as I understand, yes.

16 Q. Before June of 2017, were employer
17 contributions calculated based on a percentage of
18 each employer's payroll?

19 A. Correct.

20 Q. Between 2013 and June of 2017, did
21 employers also contribute what were known as
22 additional uniform contributions to ERS?

23 MR. POCHA: Objection to the form and
24 also outside the scope.

25 A. Law 3, which is established, confirms the

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2 obligations of returning the employer contributions
3 -- the additional uniform contribution.

4 Q. Just so we're clear, in 2013, Law 3 was
5 enacted and it required, among other things, that
6 employers make additional uniform contributions to
7 ERS?

8 MR. POCHA: Objection. Outside the
9 scope. Calls for a legal conclusion.

10 A. Yes, Law 3 establishes additional uniform
11 contributions.

12 Q. All right. Just a little bit more
13 background.

14 The additional uniform contributions
15 were determined using an external actuary; is that
16 correct?

17 MR. POCHA: Objection. Outside the
18 scope.

19 A. So far as I understand, yes. It was
20 according to a formula that was through the
21 employer, and that was determined by the agent,
22 actuary.

23 Q. Was the actuary Milliman, Inc.?

24 A. So far as I do understand, it was in that
25 time Milliman, Inc.

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2 MR. PAPEZ: No.

3 Q. My first question is: Do you recognize
4 this as the independent auditor's report for ERS as
5 of June 30, 2016?

6 A. Yes. So far as I understand, yes.

7 Q. And KPMG was ERS' auditors in the -- for
8 the fiscal year ended June 2006?

9 A. Yes.

10 Q. Is KPMG still ERS' auditors?

11 A. Correct.

12 Q. Did ERS provide information to KPMG in
13 connection with the audit for fiscal year ended June
14 30, 2016?

15 MR. POCHA: Objection. Outside the
16 scope.

17 A. So far as I understand, I understand that
18 that is yes. That's the process, right, to be able
19 to work with the auditors, to be able to offer them
20 information.

21 Q. If you could turn first to page 6 in the
22 audit report.

23 A. (Witness complies.)

24 Q. I just have a couple of questions on
25 this. If you look in the liabilities section of the

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2 table there, there's an entry for due to
3 Commonwealth of Puerto Rico, and it has entries for
4 -- let's just pick 2016 of \$91 million.

5 My question is: Do you know what those
6 liabilities due to the Commonwealth of Puerto Rico
7 are?

8 MR. POCHA: Objection. Outside the
9 scope.

10 A. Are you referring to the 91,464-?

11 Q. Yes.

12 A. I would have to see the date when that
13 payment was emitted.

14 Q. Down a few more lines on that same page,
15 do you see the entry for bonds payable?

16 A. It's there.

17 Q. Do you understand those entries to be
18 referring to the pension obligation bonds that ERS
19 issued in 2008?

20 MR. POCHA: Objection. Outside the
21 scope of deposition.

22 A. I understand that to be so.

23 Q. Okay. Just so we're on the same page,
24 in 2008, ERS issued various pension obligation
25 bonds, correct?



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2 A. Yes, correct.

3 Q. And it received, ERS in return, around \$3
4 billion from the issuance of the bonds?

5 THE INTERPRETER: Can you --

6 MR. PAPEZ: Let me rephrase that again.

7 Q. ERS received approximately \$3 billion in
8 return as a result of the issuance of the bonds?

9 MR. POCHA: Objection to the form.

10 A. Yes. So far as I understand, yes.

11 Q. Okay. And in -- when it received the
12 pension obligation bonds -- sorry.

13 MR. PAPEZ: Strike that question.

14 Q. The pension obligation bonds required ERS
15 to make interest and pension payments on the pension
16 obligation bonds over the course of several decades,
17 correct?

18 MR. POCHA: Objection. Calls for a
19 legal conclusion.

20 A. So far as I understand, yes.

21 Q. When it issued the pension obligation
22 bonds, ERS granted the holders of the bonds a
23 security interest in various assets in ERS?

24 MR. POCHA: Objection. Also calls for
25 a legal conclusion. And the bond resolution



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2 speaks for itself.

3 A. To that effect, it exists. There's a
4 bond resolution that exists. That says what it
5 says, and it establishes what it establishes.

6 Q. In your position as the administrator of
7 ERS, did you understand that certain bondholders
8 claimed a security interest in various assets of
9 ERS?

10 A. Can you repeat the question.

11 Q. I'm just asking you in your position as
12 the administrator of ERS before June of 2013, did
13 you understand that certain bondholders claimed that
14 they had a security interest on some of the assets
15 of ERS?

16 A. I understand that there was a claim on
17 behalf of certain groups of bondholders.

18 Q. And one of the assets that the
19 bondholders claimed was subject to the security
20 interest were the future employer contributions that
21 ERS was entitled to?

22 MR. POCHA: Objection. Calls for a
23 legal conclusion.

24 A. So far as the security interest that's
25 alleged, it's something that the courts will have to

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2 confirm and decide on their day when this process
3 goes forward.

4 Q. Just to be clear, I'm not asking you to
5 agree that the security interest is valid or exists.
6 I'm just asking was ERS aware that certain
7 bondholders claimed they had a security interest on
8 future employer contributions to ERS?

9 A. Yes, I know that claim.

10 Q. And you understood that before June of
11 2017?

12 A. (No verbal response given.)

13 Q. Did you understand that before June of
14 2017?

15 A. Yes. To the best of my knowledge, yes.

16 Q. All right. Going back to the time period
17 between -- let's say between January of 2017 and
18 June of 2017, would you agree that -- let's start
19 with the Commonwealth -- was not making the full
20 amount of employer contributions it was required to
21 make?

22 MR. POCHA: Objection to the form of
23 the question.

24 A. Are you referring to the Commonwealth
25 specifically?



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2 Q. Yes, the Commonwealth central government.

3 A. To the best of my knowledge, they were
4 making payments. Of course, it's possible they did
5 have some type of debt.

6 Q. Between -- well, let's start with the
7 municipalities, then. Between January of 2017 and
8 June of 2017, were the municipalities making the
9 full amount of the employer contributions they were
10 required to make?

11 A. Some municipalities would make their
12 entire payment and others, so far as I understand,
13 did have some type of debts.

14 Q. With regard to the public corporations,
15 is it the same in the sense that some were making
16 the full amounts and some were not?

17 MR. POCHA: Objection to the form.

18 A. Yes, that's what I understand, too.

19 Q. With regard to the additional uniform
20 contributions we talked about earlier, were all the
21 municipalities paying the full amount of AUCs that
22 were required?

23 MR. POCHA: Objection. Vague as to
24 time.

25 Q. For your counsel's benefit, between

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2 January and June of 2017.

3 A. To the best of my knowledge, some were
4 making partial payments, and yes, the others were
5 making the full payments, which means that yes,
6 there were some that were in debt and were not
7 depositing the full amount.

8 Q. Okay. Is the same true with regard to
9 the public corporations in the same time period?

10 A. To the best of my knowledge, yes.

11 Q. All right.

12 I'm going to hand you what we marked
13 last week as Exhibit 4. This is a very long
14 document. I'm going to direct your attention to
15 various excerpts and ask you about them.

16 First, if you can turn to page 230.

17 A. (Witness complies.)

18 Q. In the paragraph that begins "pursuant to
19 the constitutional."

20 A. Yeah.

21 Q. The last sentence of that paragraph says:
22 The Commonwealth, however, has continued to
23 partially make its employer contribution to the ERS
24 subject to the offset of the amount of debt service
25 payable on the pension bonds discussed above.



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2 Objection. Outside the scope.

3 A. To the best of my knowledge, I know of
4 the existence of this executive order, but beyond
5 this text, right, more than what it expresses, I
6 don't feel like I can offer an interpretation that's
7 further than what it states.

8 Q. Okay. If you can turn to page 232.

9 A. (Witness complies.)

10 Q. Top of -- or I guess the second full
11 paragraph starts "history funding shortfalls," it
12 says: For several fiscal years, actual employer and
13 employee contributions to each of the retirement
14 systems have been lower than annual basic system
15 pension benefit payments and administrative
16 expenses.

17 My question is: Do you agree with that
18 statement as of January 2017?

19 MR. POCHA: Same objection. Outside
20 the scope.

21 A. Well, to the best of my knowledge, it may
22 indicate, yes.

23 Q. All right. If you look down to the next
24 paragraph -- I'm not going to read it all into the
25 record and ask you to read it to yourself.



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2 A. Yes.

3 Q. Just let me know when you're done.

4 A. Okay. Yes, I'm ready.

5 Q. Do you agree that as of January of 2017,
6 ERS was covering its funding shortfalls with
7 investment income loans from financial institutions
8 and various nonrecurring sources of funds?

9 MR. POCHA: Objection. Outside the
10 scope.

11 THE INTERPRETER: Can you repeat the
12 question.

13 Q. Do you agree that as of January 2017, ERS
14 was covering its funding shortfalls with investment
15 income, loans from financial institutions, and
16 various nonrecurring sources of funds?

17 MR. POCHA: Objection. Outside the
18 scope.

19 A. I have knowledge, to the best of my
20 knowledge, about the retirement system. It was
21 using that to pay the pension from -- that's right,
22 from different sources, to be able to pay. Yes.
23 Individual contributions, employer contributions,
24 proceeds of loans. And yes, some other income
25 sources.

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2 Q. Okay. In January of 2017, was ERS
3 selling its investment assets in order to fund
4 pensions?

5 A. Yes. According to the best of my
6 knowledge, it was operating. Yes. At the end of
7 fiscal year, they were liquidating assets to be able
8 to cover the amount of pensions that the system did
9 not have.

10 Q. If you can turn to page 211 in that
11 document, please.

12 A. (Witness complies.)

13 Q. There's a paragraph that begins "as an
14 integral part."

15 A. Uh-huh.

16 Q. About halfway through that paragraph,
17 there's a statement that says: Due to the worsening
18 fiscal crisis since the enactment of Act 3/2013,
19 however, the Commonwealth and other participating
20 employers have been unable to pay most of the ERS
21 AUC and, as a result, the ERS projects that it will
22 deplete its liquid assets during the current fiscal
23 year or first half of fiscal year 2018.

24 My question is: As of January 2017, do
25 you agree with that statement?



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2 MR. POCHA: Objection. Outside the
3 scope.

4 A. Well, in general, I can be in agreement
5 with the basic premise.

6 Q. Okay. Was ERS in January of 2017
7 projecting that it would deplete its investment
8 assets, either later in 2017 or in the first half of
9 fiscal year 2018?

10 MR. POCHA: Same objection.

11 A. Well, the retirement system before that
12 date was already liquidating assets. By January, it
13 wasn't acting as the administrator. I understand
14 because of the fiscal aspect of the system, it had
15 to continue to being under consideration, the
16 liquidation of assets.

17 Q. Just so I understand, in January of 2017,
18 ERS was liquidating its investment assets?

19 MR. POCHA: Objection. Outside the
20 scope.

21 A. To the best of my knowledge, yes.

22 Q. And in that time frame, did ERS
23 anticipate that it would run out of investment
24 assets sometime later in calendar year 2017?

25 MR. POCHA: Objection. Outside the



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2 scope.

3 Also exclude any privileged
4 information.

5 A. To the best of my knowledge, yes, it
6 could have been considering that possibility.

7 Q. If you look back at Exhibit 4 on page 211
8 after the sentence that I read earlier, it says: At
9 that point, assuming no liquidation of illiquid
10 assets and no payments of the ERS-UAC payable for
11 the current and prior fiscal years, the ERS would be
12 operating on a Pay-As-You-Go basis.

13 Then it goes on from there.

14 A. Uh-huh.

15 Q. My first question is: Do you agree with
16 that statement that I just read?

17 MR. POCHA: Same objection.

18 Q. In the January 2017 time frame.

19 MR. POCHA: Same objection. Outside
20 the scope.

21 A. By what do you mean that I should be
22 specifically in agreement with?

23 Q. Well, do you agree that once ERS ran out
24 of its investment assets, it would be operating on a
25 pay-as-you-go basis, meaning that whatever funds



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2 came into ERS, ERS would have to use to pay current
3 retiree benefits?

4 MR. POCHA: Same objection. Outside
5 the scope.

6 A. Well, the Pay-As-You-Go is a system
7 that's known that operates in other retirement
8 systems. So as far as I understand from this
9 document and this sentence, I can see that it's a
10 possibility, right, or that it's under
11 consideration. But from what I see, it's not
12 something that's deterministic at that moment.

13 Q. In January of 2017, would you agree that
14 the funds coming in to ERS from public corporations,
15 municipalities, and then the Commonwealth's
16 accounting entries were not sufficient to completely
17 pay the retirement benefits that ERS was responsible
18 for paying at that moment?

19 MR. POCHA: Objection. Outside the
20 scope.

21 A. Yes, in general, I could be in agreement
22 with that premise.

23 Q. As we discussed earlier, as a result, in
24 order to be able to pay the retirement benefits, ERS
25 was selling its investment assets?



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2 MR. POCHA: Objection. Outside the
3 scope.

4 A. Yes. I already answered that.

5 Q. Okay. Once ERS ran out of investment
6 assets, isn't it true that everything that would
7 come into ERS in terms of funds from employers would
8 then have to be used almost immediately to pay the
9 retiree benefits?

10 MR. POCHA: Objection. Outside the
11 scope. Calls for speculation.

12 A. To be honest, I didn't understand that
13 premise in terms of the time, like so that I can I
14 understand what time period we're talking about.

15 Q. Well, in January of 2017, we talked
16 earlier that ERS viewed it as a risk that it would
17 run out of investment assets sometime that calendar
18 year.

19 MR. POCHA: Objection.
20 Mischaracterizes testimony.

21 Q. Is that correct?

22 MR. POCHA: Same objection.

23 A. I had already answered this. Yes.

24 Q. Okay. And ERS had an obligation to pay
25 retiree committee benefits in January 2017?



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2 A. Yes. At that moment, yes.

3 Q. Was ERS --

4 MR. PAPEZ: Strike that. Let me start
5 over.

6 Q. Did ERS view it as a risk that once it
7 ran out of investment assets, it would no longer be
8 able to pay the retiree committee benefits that were
9 due unless additional funds came in?

10 MR. POCHA: Objection. Outside the
11 scope.

12 A. Well, we could conclude that given the
13 reality of the fiscal system, it was something that
14 they should have had in mind.

15 Q. Would you agree that once that happened,
16 every -- all the funds that would be going into ERS
17 would have to be going out in order to pay retiree
18 benefits?

19 MR. POCHA: Objection. Outside the
20 scope. Calls for speculation.

21 A. When you say go out, what do you mean?

22 Q. Would you agree that once all of ERS'
23 assets have been sold, all the revenues from
24 employers that would be paid into ERS would then
25 have to be paid out almost immediately to fund the



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2 retiree benefits that ERS was obligated to pay?

3 MR. POCHA: Same objection. Improper
4 hypothetical.

5 A. The money that was being received from
6 different sources, in fact, was to be able to pay
7 the pensions, and that's actually why ERS was
8 created as a trust, to be able to pay the pensions.

9 Q. And once ERS no longer had investment
10 assets, it would have to have higher income levels
11 from the employers in order to pay the retirees it
12 was obligated to pay?

13 MR. POCHA: Same objections.

14 A. I'm sorry. I didn't understand the
15 question.

16 Q. Okay.

17 THE INTERPRETER: I think he wants --

18 A. I feel like we keep on going over the
19 same things. Maybe if you could be more specific.

20 Q. You already said that ERS considered it a
21 risk in January of 2017 that it would run out of
22 investment assets sometime in calendar year 2017,
23 correct?

24 MR. POCHA: Objection. Outside the
25 scope.



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2 A. I said that at that point it should have
3 been a consideration of theirs that that possibility
4 could happen under the financial realities of the
5 system.

6 Q. Because ERS was obligated to pay retiree
7 benefits, it would have --

8 MR. PAPEZ: Strike that question.

9 Q. I also think that you testified earlier
10 -- correct me if I'm wrong -- that the employer
11 contributions being paid into ERS in January of 2017
12 were insufficient to pay the retiree benefits that
13 were then being paid out of ERS in January 2017?

14 A. Yes, and not only employer contributions.
15 The other sources that were being received, like the
16 individual. The loan proceeds.

17 Q. The loan proceeds that you referred to,
18 are those from the pension obligation bonds we
19 talked about earlier?

20 MR. POCHA: Objection. Misstates
21 facts. Also outside the scope.

22 THE INTERPRETER: The interpreter needs
23 the entire question repeated if possible.

24 Q. A few moments ago you referred to loan
25 proceeds, and I just want to know what loan proceeds



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2 you're referring to.

3 A. The loans that were made to the
4 participants in the system, yes, and that they were
5 paid monthly.

6 Q. I see. All right.

7 Getting back to where we were. In
8 January of 2017, did ERS project that once it ran
9 out of investment assets, it would need higher
10 levels of contributions from employers in order to
11 continue to pay the full amount of pension retiree
12 benefits?

13 MR. POCHA: Objection. Outside the
14 scope.

15 A. I think that's conclusive. In that
16 moment, as the financial situation was in effect, I
17 understand there were many options being determined
18 and considering, right, knowing that the system's
19 assets were finishing to be able to pay the
20 pensions.

21 But it's conclusive that by January of
22 2017, there had been a final determination made
23 about that when we were finished with these
24 assets, we would have to take one alternative,
25 either this one or that one. It was under

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2 analysis, right?

3 Q. Was one of the alternatives ERS was
4 considering an increase in employer contributions?

5 MR. POCHA: I'm going to object on
6 privilege grounds.

7 To the extent you can answer without
8 disclosing privileged information, you can.
9 If you cannot, I instruct you not to answer.

10 MR. PAPEZ: Just so I'm clear, which
11 privilege are you asserting?

12 MR. POCHA: This is both
13 attorney-client and deliberate process
14 privilege, because the question is framed in
15 terms of what was considered.

16 A. Correct. To be honest, this is difficult
17 to answer this question without having to reveal
18 some type of privilege.

19 Q. Are you able to answer it without
20 revealing any privilege?

21 A. No. We're going back over this again. I
22 indicated that there were many things on the table
23 for consideration. But going to what those specific
24 considerations were, it could be a breach of
25 privilege.

1 L. COLLAZO

2 THE INTERPRETER: Can we take a break?

3 MR. PAPEZ: Let's go ahead and take a
4 break. It's a good time for one.

5 THE VIDEOGRAPHER: We're going off the
6 video record, 10:56 a.m.

7 (Whereupon, there was a pause in the
8 proceeding.)

9 (Whereupon, a report was marked as
10 Exhibit 35 for identification, as of this
11 date.)

12 THE VIDEOGRAPHER: We're back on the
13 video record, 11:06 a.m.

14 Q. Mr. Collazo, I'm handing you --

15 A. I just want to go back to the question
16 you were asking about an increase in the employer
17 contributions.

18 It's important to note that the Law
19 Number 3, which was already in full activity,
20 fully enacted by January of 2017, had already
21 established increases from employer contributions
22 by law each year. What I understand is that was
23 until 2021. That increase in contributions, it's
24 actually enacted through law.

25 Q. The increase in employer contributions



1 L. COLLAZO

2 that you're referring to there, are those in
3 addition to the additional uniform contributions?

4 A. Yes, they're in addition. They're two
5 separate concepts. I'm sorry. I just wanted to
6 clarify, because I remembered that and I wanted to
7 just clarify.

8 Q. I'm handing you what we marked as Exhibit
9 35. My first question is: Do you recognize this
10 document as the actuarial valuation report for ERS
11 for the fiscal year ended June 30, 2016, with some
12 addendums attached by Milliman?

13 A. Yes.

14 Q. First question is: Is ERS required to
15 publish actuarial valuation reports from time to
16 time?

17 MR. POCHA: Objection. Outside the
18 scope.

19 A. Yes. To the best of my knowledge, it's
20 published at the end on our website.

21 Q. And Milliman is ERS' actuarial advisor --

22 MR. PAPEZ: Well, let me just strike
23 that. It was a bad question.

24 Q. How long, to best of your knowledge, has
25 Milliman been ERS' actuarial advisor?

1 L. COLLAZO

2 A. To the best of my knowledge, they've been
3 doing that for many years. Many years in that role.

4 Q. Does ERS provide information to Milliman
5 in order for Milliman to complete its actuarial
6 evaluation?

7 A. Yes.

8 Q. What types of information does ERS
9 provide to Milliman for that purpose?

10 MR. POCHA: Objection. Outside the
11 scope.

12 A. We submit information that Milliman needs
13 to be able to compose their analysis. The data.
14 Like, for example, from the population, from all the
15 other participants, from the -- from all different
16 ages, all different genders. That's one of the
17 things that we offer is all the census data and any
18 type of specific numbers that are requested.

19 They might ask us for some particular
20 information from a particular agency. And any
21 other information that Milliman requests that
22 deems necessary or clarification that Milliman
23 might need related to any type of topic to be able
24 to emit their reports to work the gaps or -- no,
25 not that basically. Yes.



1 L. COLLAZO

2 Q. We'll talk about this more a little bit
3 later, but I understand that Milliman also assists
4 in determining the Pay-Go charge that is charged to
5 each of the employers after July 1, 2017; is that
6 correct?

7 MR. POCHA: Objection to the form.

8 A. No, that's not correct.

9 Q. Does Milliman have a role in the Pay-Go
10 system that was implemented after July 1, 2017?

11 MR. POCHA: Objection to the form.

12 A. So far as I know, I don't know what kind
13 of specific role they might have. If you can be
14 more specific, I can tell you if they played that
15 role or not or if they had that role or not.

16 Q. In calculating the Pay-Go charge for each
17 employer, does ERS provide information to AAFAF for
18 that purpose?

19 A. Yes, they provided information to AAFAF.

20 Q. What type of information does ERS provide
21 to AAFAF for purposes of calculating the Pay-Go
22 charge?

23 A. It's basically the information from our
24 pension years and our beneficiaries per employer and
25 the quantity of benefits that are received by those



1 L. COLLAZO

2 pensioners or beneficiaries to be able to know how
3 much has to be paid -- to be able to know how much
4 has to be paid through their employer, through their
5 pensioners or their beneficiaries -- to their
6 employer.

7 Q. The information that ERS provides to
8 AAFAF for calculating their Pay-Go charge, is that
9 similar to the information that ERS would provide
10 Milliman for purposes of calculating -- for purposes
11 of the actuarial reports?

12 A. Yes. Some information may be similar, as
13 it is with the pensioners and the beneficiaries, and
14 the cost of the pension that each one represents.

15 Q. Getting back to the Exhibit 35, the 2016
16 actuarial valuation report, the document doesn't
17 have page numbers, but if you turn about ten pages
18 in, there's a page that says Puerto Rico Government
19 Employees Retirement System, June 30, 2016,
20 actuarial valuation report, and then there's a big
21 black box with white letters.

22 And I have seen you've turned to that,
23 correct?

24 A. Correct.

25 Q. The text in the big black box, the first



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2 sentence says: PRG ERS net assets became negative
3 in the 2014-2015 fiscal year.

4 And then it goes on from there. The
5 first question is: PRG ERS, you understand that
6 to be ERS?

7 A. Yes, Puerto Rico Government Retirement
8 System, yeah.

9 Q. Do you have an understanding of what it
10 means that ERS' net assets became negative in the
11 2014-2015 fiscal year?

12 MR. POCHA: Objection. Outside the
13 scope.

14 A. What I can understand from what it says
15 here is that the net assets from the system were
16 going to be less than the obligations.

17 Q. The next sentence in that black box says:
18 If the increasing Act 1/16/2011 employer
19 contributions --

20 I will tell you what: Instead of
21 reading that full sentence into the record, I'm
22 going to ask you to read that sentence to yourself
23 beginning "if the increasing act 1/16/2011
24 employer contributions."

25 A. (Witness complies.)



1 L. COLLAZO

2 Q. My question is: As of January 2017,
3 would ERS have agreed with that statement?

4 MR. POCHA: Objection. Outside the
5 scope.

6 A. From what I understand with that
7 statement is that there was an assumption being
8 made, and right -- well, in 2017 in January there
9 was a reality, right? Yes.

10 Q. So you agree with that statement,
11 correct?

12 MR. POCHA: Objection. Outside the
13 scope.

14 A. Well, the thing is -- one thing is the
15 assumption of the statement, and another thing is
16 the reality taking place in January of 2017. Now,
17 whether or not I can believe this assumption was
18 reflected in January of 2017, it's reality of the
19 system in January of 2017, it's well-known.

20 Q. When Milliman prepares the actuarial
21 valuation, does it provide a draft to ERS for review
22 and comment before the actuarial valuation becomes
23 final?

24 MR. POCHA: Objection. Outside the
25 scope.



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2 A. Yes. To the best of my knowledge, yes.

3 Q. Does ERS, if it has any comments or
4 requested revisions, communicate those to Milliman?

5 MR. POCHA: Objection. Outside the
6 scope.

7 A. Yes. It can offer commentary or it can
8 signal if there's a mistake made, yes.

9 Q. How about after the actuarial valuation
10 report was published? Does ERS review it to make
11 sure that it doesn't have any comments or
12 clarifications to make to the report?

13 MR. POCHA: Okay. Outside the scope.

14 A. Yes, always. Of course there's a final
15 review.

16 Q. If you turn to page -- now we have page
17 numbers -- page 11 of the actuarial valuation
18 report, which is Exhibit 35.

19 A. Uh-huh.

20 Q. All right. There's a section that says
21 commentary on Pay-As-You-Go funding.

22 Do you see that?

23 A. Yes, I see it.

24 Q. Okay. The last paragraph there says:
25 The Pay-Go funding needed in a given year is the



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2 ERS are in establishment according to whatever the
3 payroll is.

4 THE INTERPRETER: Is that correct? The
5 interpreter is having a brain fuzz right now.

6 A. (In English) Can I answer in English?

7 MR. PAPEZ: Yes.

8 A. (In English) contributions to ERS are
9 primarily based -- that's what it says in the
10 document -- on statutory percentage of payroll.
11 That was through with the employer contribution, not
12 with the Pay-Go charge.

13 That's basically the discrepancies I
14 might have with wording of this statement,
15 basically.

16 Q. Are you aware of any correction or
17 revision that ERS has requested to the statements
18 we've just gone over on page 11?

19 MR. POCHA: Objection. Outside the
20 scope.

21 A. To the best of my knowledge, up until
22 this date, they may be able to remember if they've
23 had any type of conversation or they've made any
24 type of note specifically in relation to this point.

25 I can't categorically affirm either

1 L. COLLAZO

2 that we did not make the commentary, either by
3 phone or via written form, or that we did not. We
4 talked about many topics and we maintain ourselves
5 in conversation. Yes.

6 Q. All right. The bullet on page 11 there
7 says: Contributions to PRG ERS are primarily based
8 on statutory percentages of payroll.

9 From what I understand your earlier
10 testimony to be -- correct me if I'm wrong -- is
11 that referring to the system that was in place
12 before June of 2017?

13 MR. POCHA: Objection. Outside the
14 scope. The question lacks foundation.

15 A. Yes. I'm going to refer once again to my
16 previous statement that, to the best of my
17 knowledge, the statutory percentage of the payroll
18 was calculated according to employer contributions
19 before June of 2017.

20 The Pay-Go, it is not based on
21 statutory percentages of the payroll.

22 Q. Pay-Go is based on the current benefits
23 that are owed at any particular point in time; is
24 that correct?

25 A. Correct. The real cost of the pensioners

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2 and the beneficiaries, that varies according from
3 time to time, according to when you have new
4 pensioners and when they pass away.

5 Q. Does ERS provide the information about
6 the current benefits and the beneficiaries to AAFAF
7 in order so that AAFAF can calculate the Pay-Go fee
8 that is owed?

9 MR. POCHA: Objection. Outside the
10 scope.

11 A. Yes, that's correct. We offer that
12 information so they can make the calculations with
13 that data.

14 Q. And as you understand the system, does
15 AAFAF provide that information to -- who?

16 A. I don't -- AAFAF is our fiscal agent.
17 And who they share the data which we give them is
18 not something I can articulate or specify.

19 Q. Let me try a different question. That
20 was a bad question.

21 When AAFAF calculates the Pay-Go fee
22 that is owed, who does AAFAF communicate that
23 amount to?

24 MR. POCHA: Objection. Outside the
25 scope. Lacks foundation.

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2 A. I can't affirm with that information who
3 AAFAF provides that information to. But being
4 sincere and based on my experience, I understand
5 that they should share that with the Office of
6 Management and Taxes, Office of Management and
7 Budget, and probably also with the Department of
8 Treasury, OMB and the Department of Treasury,
9 without excluding other entities that may benefit
10 from that information.

11 Q. Who sends the invoices with the Pay-Go
12 fees to each of the employers?

13 A. We do, the retirement system.

14 Q. Go to page 12 in Exhibit 35. There's a
15 bullet that says disbursements are comprised of
16 benefit payments, administrative expenses, and
17 pension obligation bond debt service.

18 A. Yes.

19 Q. Before June of 2017, were those the three
20 primary categories of disbursements from ERS?

21 MR. POCHA: Objection. Outside the
22 scope. Lacks foundation.

23 A. Yes. To the best of my knowledge, I
24 understand that that is, yes.

25 Q. After July of 2017, does ERS continue to



1 L. COLLAZO

2 have administrative expenses?

3 A. Yes, that's correct.

4 Q. After July of 2017, benefit payments owed
5 to pensioners are still being paid, correct?

6 MR. POCHA: Objection to the form.

7 Outside the scope.

8 A. Not by ERS, but they are continuing to be
9 paid.

10 Q. And they are continuing to be paid
11 through the Pay-Go fee charges that we discussed
12 earlier, correct?

13 MR. POCHA: Objection to the form.

14 A. Yes, correct.

15 Q. Are the administrative expenses paid --

16 MR. PAPEZ: Let me strike that.

17 Q. How are the administrative expenses for
18 ERS paid after July of 2017?

19 A. Yes. They continue being paid from our
20 operations account, which is the remaining of the
21 funds that at some point entered into the system.

22 Q. Would ERS also use those same funds to
23 pay administrative expenses before July of 2017?

24 MR. POCHA: Objection to the form.

25 A. Yes, from that same operations account.



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2 Q. Is ERS still paying pension allocation
3 debt service after July of 2017?

4 MR. POCHA: Objection to the form.

5 A. No, and that's why we're in the middle of
6 this process of Title 3.

7 Q. You can set that document aside.

8 (Whereupon, a report was marked as
9 Exhibit 36 for identification, as of this
10 date.)

11 Q. I'm handing you what I've marked as
12 Exhibit 36.

13 My first question is: Do you recognize
14 this as the actuarial valuation report for ERS as
15 of June 30, 2017?

16 A. Yes.

17 Q. If you turn to the second page of the
18 document or the exhibit, there's a letter from
19 Milliman addressed to you. It's dated March 26,
20 2019.

21 My question is: Is that when the final
22 actuarial valuation report from the year ended
23 June 30, 2017, was finally published?

24 MR. POCHA: Objection. Outside the
25 scope.

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2 A. Like, for example, which calculations are
3 you talking about specifically? All of the
4 calculations being made?

5 Q. Let's just move on. I'm handing you what
6 was marked last week as Exhibit 11. This is the
7 Commonwealth of Puerto Rico fiscal plan dated
8 October 14, 2016.

9 Do you see that, sir?

10 A. Yes, I can see that.

11 Q. Was ERS involved in preparing this
12 October 2016 draft of the Commonwealth fiscal plan?

13 MR. POCHA: Objection. Outside the
14 scope of the deposition.

15 A. I would have to speculate in relation to
16 this, because this was under the last administration
17 and in no way was I participating in any public
18 political charge.

19 To be able to affirm who participated
20 in this fiscal plan, it's not something that I
21 would have any knowledge about.

22 Q. Who held the position of the
23 administrator of ERS before you did?

24 A. Pedro Ortiz Cortes.

25 Q. Did Mr. Cortes hold that position until

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2 outside the scope of the deposition.

3 MR. PAPEZ: We have a disagreement
4 about that.

5 A. The question is why not?

6 Q. Yes. Two questions. Let me do one at a
7 time.

8 Did you make an inquiry about whether
9 ERS was involved in putting together the October
10 2016 Commonwealth fiscal plan?

11 MR. POCHA: Same objections as before.

12 Don't disclose privileged information.
13 You can answer yes or no to the best of your
14 memory.

15 A. I don't remember having asked that
16 question.

17 Q. Okay. Second question is why not?

18 MR. POCHA: Same objections.

19 Don't disclose privileged information.
20 You can answer if you can do so without
21 disclosing conversations with counsel.

22 A. So actually, I will take my lawyer's
23 advice, and I won't be answering due to the
24 possibility of having some type of privilege
25 revealed.

1 L. COLLAZO

2 Q. Can you turn to page 83 of Exhibit 11.

3 A. I'm there.

4 Q. There's a column on the right that says
5 base projection outflow bill.

6 Do you see that?

7 A. Yes.

8 Q. Second box down says AAC AUC, and then
9 (INCR. retirement system fundings).

10 A. Yes.

11 Q. And then it has an 11.0, representing \$11
12 billion, correct?

13 A. Yes, that's what I understand. Oh, yes.

14 Q. Referring to the box in the far right in
15 that same row, do you understand that \$11 billion to
16 represent the amount of funds required to adequately
17 fund the ERS, TRS, and JRS retirement systems?

18 MR. POCHA: Interpose an objection to
19 the scope and speculation.

20 A. Well, to begin with, that would be to
21 speculate about this issue. And secondly, to be
22 able to answer that question today would be
23 academic, since the fiscal plan is from 2016 and
24 today, well, there's another reality.

25 Q. As you sit here today, you cannot provide



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2 me any testimony about what the text I just referred
3 to on page 83 means from ERS' perspective, correct?

4 MR. POCHA: Objection. Outside the
5 scope. Also vague.

6 A. Well, if you could be more specific in
7 your question.

8 Q. All right.

9 A. Because if you're asking if I'm in
10 agreement more specifically in relation to --

11 Q. Okay. Let me try it this way. As of
12 July 1, 2017, the Pay-Go system went into effect,
13 correct?

14 A. Correct.

15 Q. And under the Pay-Go system, Pay-Go fees
16 are paid --

17 MR. PAPEZ: Strike that. Let me start
18 over.

19 Q. Under the system that went into effect on
20 July 1, 2017, the Pay-Go fees are paid into an
21 account maintained by the Treasury Department,
22 correct?

23 A. Correct.

24 Q. Is ERS aware that in the October 2016
25 fiscal plan the proposal from the Commonwealth was



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2 not to have Pay-Go fees paid to treasury but instead
3 to have increased retirement system funding going
4 into ERS?

5 MR. POCHA: Objection. Document speaks
6 for itself. Also outside the scope.

7 A. I think that explains itself.

8 Q. So, yes, the Commonwealth was proposing
9 increased funding levels to ERS in the October 2017
10 fiscal plan, at least according to Exhibit 11,
11 correct?

12 MR. POCHA: Same objections.

13 A. Well, assuredly I can't confirm that was
14 being proposed because of this text. I could think
15 that it was something that was under consideration,
16 under some consideration.

17 Q. And as you sit here today, you don't have
18 any reason to disagree with the statement that as of
19 October 2016, the Commonwealth was proposing
20 increased retirement system funding levels to ERS,
21 correct?

22 MR. POCHA: Objection. Outside the
23 scope.

24 A. Once again, I can't affirm that was being
25 proposed, because this text appears in a fiscal



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2 plan, right? Notably. It was probably something
3 that was under some type of consideration, and how
4 serious that consideration was according to this
5 proposal, I cannot explain.

6 Q. You can set that aside.

7 I'm handing you what was marked last
8 week as Exhibit 5. My first question, and it may
9 be my only question, is whether you're aware of
10 whether ERS received a copy of Exhibit 5 sometime
11 in or around November of 2016?

12 A. No, I do not have that knowledge.

13 Q. Okay. If you go to page 3, point 3,
14 paragraph 3 there.

15 A. Uh-huh.

16 Q. It says: Incorporate a revised baseline
17 forecast to reflect Pay-Go funding for pension
18 benefits.

19 And then it goes on. My question is:
20 is ERS aware of whether the direction to switch
21 from an actuarially funded pension system to a
22 Pay-Go funding system, whether that decision was
23 requested by Financial Oversight and Management
24 Board?

25 A. To the best of my knowledge, that was



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2 under consideration, right, and that's the dynamic
3 that has to do with tailoring these fiscal plans
4 normally between the government and the fiscal
5 Oversight Management Committee. Right? There's
6 usually a conversation between those two entities to
7 be able to tailor the fiscal plan with different
8 perspectives, those from the board as well as those
9 from the government.

10 So to take this as like a manual, I
11 don't know if that would be appropriate. It could
12 demonstrate that this Board of Oversight,
13 Financial Oversight, had some type of vision for
14 the Pay-Go as like a type of alternative based on
15 what the text says.

16 Q. Okay. You can set that document aside.
17 I'm handing you what was marked last
18 week as Exhibit 21. You'll see it's a document
19 titled Revised Baseline Projections and dated
20 December 20, 2016.

21 Do you see that, sir?

22 A. Yes. Yes.

23 Q. My first question is: Was ERS aware of
24 these revised baseline projections in or around
25 December of 2016?



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2 Q. ERS maintains information about the size
3 of its active membership, correct?

4 A. Correct.

5 Q. And it's actually one of ERS'
6 responsibilities to maintain information about the
7 size of its active membership, correct?

8 MR. POCHA: Objection to the form.

9 A. Yes. We maintain information about
10 active members.

11 Q. Are you aware of any other entity or
12 instrumentality in the Commonwealth that maintains
13 information about the size of ERS' active
14 membership?

15 A. Each employer and precisely the database
16 for the retirement system feeds off of the
17 information that employers offer us.

18 Q. Each employer would maintain information
19 about its own retirees, correct?

20 MR. POCHA: Objection. Lacks
21 foundation.

22 A. No. In terms of the retirees, the
23 information is maintained by the system. Yes, by
24 the retirement system, correct.

25 Q. Are the active members in ERS current



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2 employees? Is that what that's referring to?

3 A. No. Well, an active participant of the
4 system is either an employee or someone that left a
5 job from service but still keeps some benefits from
6 the system that it hasn't used yet, which is called
7 an inactive participant.

8 Q. Can you turn to page 7, please, of
9 Exhibit 21.

10 A. (Witness complies.)

11 Q. There's a column on the right that says
12 Revised Baseline Projections Assumption.

13 A. I see it.

14 Q. Okay. The first bullet, there's two
15 sentences. The first sentence says that the revised
16 baseline projections assume that the Commonwealth no
17 longer makes AUC/AAC payments, including past due
18 amounts?

19 A. Yes, that's what it says.

20 Q. Okay. Are AAC payments that would --
21 were historically made to the TRS and the JRS?

22 MR. POCHA: Objection. Vague. I'm
23 sorry. I'm confused.

24 Q. Okay. Let's start it this way. Earlier
25 we talked about annual uniform contributions.



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2 Q. So then getting back to the bullet point
3 that I read earlier on page 7, is it correct that
4 the revised baseline projections were assuming that
5 the Commonwealth would no longer make the AAC
6 payments to ERS?

7 MR. POCHA: Objection. Lacks
8 foundation.

9 MR. PAPEZ: Let me withdraw that.

10 Q. So getting back to the bullet point that
11 I read earlier on page 7, is it correct that the
12 revised baseline projections were assuming the
13 Commonwealth would no longer make the AUC payments
14 to ERS?

15 MR. POCHA: Objection. Lacks
16 foundation.

17 A. That's what it says. That's what it says
18 there.

19 Q. Instead of those payments, existing
20 pension system assets, employer contributions, and
21 investment income would be used to fund benefit
22 payments, correct?

23 MR. POCHA: Objection. Lacks
24 foundation.

25 A. That is what the text says.



1 L. COLLAZO

2 Q. Okay. And if you look at footnote 2
3 there, it refers to Pay-Go projections.

4 Do you see that, sir?

5 A. Yes, I see it.

6 Q. All right. Are the Pay-Go projections
7 referred to in footnote 2 the same as the employer
8 contributions referred to in the text?

9 MR. POCHA: Objection. Calls for
10 speculation. Lacks foundation.

11 A. No, it's not the same.

12 Q. Okay. What are the difference between
13 the employer contributions as referred to in the
14 text of page 7 and the Pay-Go fees -- Pay-Go
15 projections that are referred to in footnote 2?

16 MR. POCHA: Objection. Lacks
17 foundation. Calls for speculation.

18 A. Yes. Basically there's many differences.
19 The first is how the employer contributions are
20 calculated as is seen in the text of page 7. It's
21 not the same way that the Pay-Go is calculated.

22 Secondly, those employer contributions
23 that are mentioned on page 7, the purpose is
24 different than the purpose for the Pay-Go.

25 And the employer contributions are to



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2 fund the system, the retirement system, to be able
3 to comply with future payments of the system.

4 On the other hand, the Pay-Go is to
5 satisfy the real and present payment of the
6 pensioners and -- of the current pensioners and
7 beneficiaries.

8 And thirdly, those employer
9 contributions were already determined by law, and
10 the way that it was going to be calculated -- and
11 the Pay-Go is calculated according to the cost of
12 pension and the way that it varies, according to
13 the current pensioners and those that are passing
14 away.

15 Q. Let me take those in sort of reverse
16 order and ask a few questions about each of them.

17 You first said that employer
18 contributions were determined by law, but the
19 Pay-Go were calculated according to the cost of
20 the pensions and how that cost varies according to
21 the pensioners and to the folks who pass away,
22 correct?

23 A. Correct.

24 Q. Okay. Is there any -- well, first of
25 all, who does the calculation today about the cost



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2 of the pensions and how it varies according to the
3 current pensioners and the folks who pass away?

4 A. That calculation is done by the
5 retirement system. Because we have the pensioners
6 database. So having received communication with the
7 -- and analyze the information from the fiscal
8 agent, AAFAF, so in conversation with the fiscal
9 agent and AAFAF.

10 Q. So I understand, ERS does the calculation
11 for the Pay-Go cost --

12 MR. PAPEZ: Strike that. That's wrong.

13 Q. The first point you made when I asked you
14 the differences was how the employer contributions
15 were calculated was not the same as how the Pay-Go
16 fees are calculated, correct?

17 A. Correct.

18 Q. Isn't that what we were just discussing
19 in terms of the third point you made that employer
20 contributions were determined by law, but Pay-Go
21 fees were calculated differently? Basically my
22 question is: Your point one and your point three
23 earlier, aren't they the same?

24 MR. POCHA: Objection. Vague.

25 A. Yes, it's possible they bear



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2 similarities. Yes.

3 Q. The second point you made when I asked
4 you about the differences between employer
5 contributions and Pay-Go fees -- and correct me if
6 I'm wrong -- is that employer contributions were
7 intended to fund the retirement system to comply
8 with future benefit rights, whereas the Pay-Go
9 system is intended to fund the system to satisfy the
10 current pension benefits; is that correct?

11 MR. POCHA: Objection. Vague. Also
12 assumes facts.

13 A. Yes, basically the explanation.

14 Q. And as we talked about at the beginning
15 of the deposition, as of January 2017, the employer
16 contributions were not sufficient to continue to
17 fund the retirement system, and as a result, the
18 retirement system was selling its investment assets,
19 correct?

20 A. Correct.

21 Q. And once those investment assets had been
22 completely sold, the money that would come into the
23 ERS system in the form of employer contributions
24 would then be funding current retirement benefits,
25 correct?



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2 MR. POCHA: Objection. Asked and
3 answered. Also speculation.

4 A. Yes. You actually answered the question.

5 Q. Okay. All right.

6 MR. PAPEZ: Let's go off the record.

7 THE VIDEOGRAPHER: Going off the video
8 record, 12:50 p.m.

9 (Whereupon, a lunch recess was taken.)

10 THE VIDEOGRAPHER: We are back on the
11 video record. It is 1:36 p.m.

12 Q. Mr. Collazo, I'm going to hand you what
13 was previously marked as Exhibit 6 last week.

14 A. Yeah.

15 Q. Do you see this as the fiscal plan for
16 the Commonwealth dated as of February 27, 2017?

17 A. Yes.

18 Q. Did ERS provide input into this fiscal
19 plan?

20 A. In that sense, I wouldn't be able to
21 affirm that, that assertion, because I can't confirm
22 that ERS has any role, played any role in this
23 fiscal plan.

24 Q. If you turn to page 62, please.

25 A. Yes.



1 L. COLLAZO

2 fiscal plan for the Commonwealth dated as of March
3 13, 2017?

4 A. Yes.

5 Q. Which exhibit did I give you?

6 A. 22.

7 Q. If you turn to page 13 of Exhibit 22, do
8 you see row 5? It talks about required Pay-Go
9 contribution: ERS, TRS, and JRS.

10 Do you see that?

11 A. Yes, I see it.

12 Q. In March of 2017, was ERS aware of
13 considerations about moving to a Pay-As-You-Go
14 system to fund retirement benefits?

15 MR. POCHA: Objection. Privileged.

16 You can answer without disclosing any
17 privileged information, so yes or no.

18 A. To the best of my knowledge, I cannot
19 affirm that ERS was aware of this transformation at
20 that time and up to what point and to what extent it
21 was.

22 Q. All right. The bullet I just read
23 suggests that the required Pay-Go contributions
24 would be paid into ERS.

25 First of all, do you agree with that?



1 L. COLLAZO

2 shortly thereafter?

3 A. Once again, we return. We return to the
4 same. It's not something that I can affirm.
5 Because by March, the person who was undertaking the
6 role of the interim administrator was someone who
7 was beneficiary who belonged to the last
8 administration, so I have no way of knowing if they
9 had received information about this.

10 Q. Okay. You can set that aside.

11 Generally, before --

12 MR. PAPEZ: Describing that.

13 Q. You've heard of Joint Resolution 188,
14 correct?

15 A. Correct.

16 Q. Before Joint Resolution 188 was passed,
17 employer contributions were paid into a trust fund
18 held by ERS, correct?

19 MR. POCHA: Objection to the form.

20 A. So the employer contributions were
21 deposited to an operational account that was part of
22 the system.

23 Q. Okay. And the operational account was
24 part of ERS, correct?

25 A. Yes.



1 L. COLLAZO

2 MR. POCHA: Objection to the form.

3 Q. After Joint Resolution 188 went into
4 effect, Pay-Go fees are paid into an account held by
5 the Treasury Department, correct?

6 A. Yes, since July 1st of 2017.

7 Q. When did ERS first become aware of
8 discussions about whether Pay-Go fees would be paid
9 into an account held by the Treasury Department
10 instead of an account held by ERS?

11 MR. POCHA: Objection. Privilege.

12 You can answer just disclosing
13 privileged conversations.

14 A. Well, basically everything -- we have our
15 agent, our control agent, which is AAFAF -- fiscal
16 control agent, which is AAFAF.

17 Well, let me ask you this question:
18 Are you asking when we became aware of that
19 resolution Joint Resolution 188?

20 Q. No. Let me start it this way. Was there
21 a time before Joint Resolution 188 was passed that
22 ERS became aware of a decision that Pay-Go fees
23 would be paid into an account held by the Treasury
24 Department instead of an account held by ERS?

25 MR. POCHA: Objection. Same objection



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2 as before.

3 Exclude privileged discussions.

4 A. No. We weren't aware before this
5 resolution 188, no.

6 Q. Because your attorney interposed an
7 objection, I want to make sure I'm clear.

8 Are you saying that you're not aware at
9 all or you're unable to answer consistent with
10 your attorney's objection?

11 A. I'm sorry. Any knowledge about --

12 Q. So I want -- what I'm trying to ask is
13 whether ERS knew before Joint Resolution 188 was
14 passed that a final decision had been made that the
15 Pay-Go fees would be held into an account held by
16 the Treasury Department instead of ERS?

17 A. No, we weren't aware of that final
18 decision.

19 Q. When did ERS become aware of a decision,
20 a final decision, that Pay-Go fees would be paid
21 into an account held by the Treasury Department
22 instead of an account held by the ERS?

23 MR. POCHA: Objection to the form.

24 A. Well, a final decision was made about
25 this after the passing of the law 106.217. We did

1 L. COLLAZO

2 know there were some considerations, and we were
3 looking to analyze this issue, but when it's finally
4 approved. It's with the Law 106 from the year 2017.

5 Q. What was ERS' understanding of why the
6 decision was made to pay Pay-Go fees held by the
7 Treasury Department instead of an account at held by
8 the ERS?

9 MR. POCHA: Objection. Privilege.

10 I'm instructing you not to disclose
11 attorney/client privilege or process
12 privilege.

13 A. It's impossible to answer that question
14 without having exposed some type of privilege that
15 was already discussed. Deliberative process was
16 already discussed.

17 Q. I'm handing you a copy of Exhibit 8 that
18 was marked last week. The first few pages are an
19 English translation of Joint Resolution 188, and
20 then the Spanish version is attached in the last
21 several pages.

22 A. Yes.

23 Q. Based on -- well, let me just ask: Was
24 ERS involved in the drafting of Joint Resolution
25 188?

1 L. COLLAZO

2 A. We did not participate.

3 Q. Did ERS review any drafts of Joint
4 Resolution 188?

5 A. We did not participate.

6 Q. You understand that Joint Resolution 188,
7 one of the effects was to eliminate employer
8 contributions to ERS, correct?

9 MR. POCHA: Objection. The law speaks
10 for itself.

11 A. Well, I think the best explanation of
12 that is the statement of legislative intent, which
13 is in the law.

14 Q. Putting aside the statute -- I'm not
15 asking you for a legal interpretation -- was ERS'
16 understanding of the effect of Joint Resolution 188
17 that employer contributions would be eliminated?

18 MR. POCHA: Same objection. And asked
19 and answered.

20 A. Once again, what I understand is not
21 material, because the resolution was passed and
22 approved. And here you can find what's established
23 and why it's established and what the purpose is.

24 Q. You can set -- well, let me go about it
25 this way: After July 1, 2017, did ERS receive any



1 L. COLLAZO

2 further employer contributions?

3 A. Can you repeat that again. Just to
4 figure out the time frame.

5 Q. Sure.

6 After July 1, 2017, did ERS receive any
7 further employer contributions?

8 A. Well, by the the 1st of July, in terms of
9 the month of July, what I understand is we did
10 receive an employer contribution by an employer that
11 was made by mistake.

12 The way that this whole employer
13 contribution system worked is that the retirement
14 system would receive -- for example, in June, they
15 would receive the employer contribution from May,
16 and in July, that from June.

17 So the month of June, there was still
18 the retirement of depositing that employer
19 contribution, but then there was the transition to
20 the Pay-Go, so one employer made a deposit into
21 our account.

22 It's important to make note that that
23 contribution was not just a contribution, an
24 employer contribution, because within one payment,
25 the employer would submit various concepts,



1 L. COLLAZO

2 individual contributions, loans, employer
3 contributions, disability insurance.

4 So we did identify the mistake and we
5 reversed the transaction.

6 Q. All right. What I'm getting at, Mr.
7 Collazo, is actually just much simpler. I want to
8 be able to agree with you, if we can, that joint
9 resolution eliminated employer contributions into
10 ERS. I'm not looking for a legal conclusion.

11 I just want to know whether ERS
12 understood that after Joint Resolution 188 went
13 into effect, employers no longer made
14 contributions into ERS.

15 MR. POCHA: Same objections as before.

16 A. Yes, well, in reference to that, I'm
17 referring to section 4, bullet 3 of the resolution.

18 Q. Okay. And section 4, subparagraph 3 of
19 the Joint Resolution 188 eliminated employer
20 contributions by the central government, public
21 corporations, and municipalities to ERS, correct?

22 A. That's what it says, yes.

23 Q. All right. If you look over at section
24 4, subpart 4, the obligation to pay additional
25 uniform contributions was also eliminated, correct?

1 L. COLLAZO

2 A. That's what it says, yes.

3 Q. All right. As far as you understand --
4 and by you, I mean ERS -- did Joint Resolution
5 create any new pension benefits for retirees?

6 MR. POCHA: Objection. Calls for a
7 legal conclusion. Also, the law speaks for
8 itself.

9 A. Once again, we go back to the same point.
10 The resolution speaks for itself. I don't see
11 anything textually here that says there's a new
12 benefit being established in any way it's trying to
13 convey that's what's said.

14 Q. And I think we agree on this, but I just
15 need to make sure that ERS has the same
16 understanding, and that's that the pension benefits
17 that ERS was obligated to pay to its retiree
18 pensioners were not increased following the passage
19 of Joint Resolution 188. Is that correct?

20 MR. POCHA: Same objections. Calls for
21 a legal conclusion. The law speaks for
22 itself.

23 A. I don't notice or see any new benefit.

24 Q. Okay. Before July 1, 2017, ERS would
25 calculate and determine what benefits were owed



1 L. COLLAZO

2 under the Act 447 to its -- the members that were
3 participating in that defined benefit program,
4 correct?

5 MR. POCHA: Objection to the form.

6 A. Yes, and defined contributions as well.

7 Q. Right now I'm only going to be talking
8 about the defined benefit program.

9 After July 1, 2017, ERS still
10 determines what benefits are owed under Act 447 to
11 the members of the defined benefit program,
12 correct?

13 MR. POCHA: Objection to the form.

14 A. Well, it's important to point out that
15 those benefits are determined by law. The
16 retirement system's job is to calculate the pension
17 in agreement with whatever's established by the law.

18 Q. Okay. Between June 2017 and July 2017,
19 did ERS change how it calculated the benefit
20 payments it owed to members of the defined benefit
21 program?

22 MR. POCHA: Objection to the form.

23 A. The way in which benefits for pensions
24 were calculated didn't change. They haven't
25 changed. We continue performing that according to



1 L. COLLAZO

2 what is said in the law.

3 Q. Okay. And the law --

4 MR. PAPEZ: Strike that.

5 Q. When ERS is calculating benefits, it
6 follows the law; is that what you said? Correct?

7 A. Yes, the law establishes how benefits are
8 to be calculated according to the law.

9 Q. Okay. Did Joint Resolution 188 change
10 the pension benefits owed to members of the defined
11 benefit program?

12 MR. POCHA: Objection. Calls for legal
13 conclusion.

14 MR. PAPEZ: He just testified that he
15 follows the law, that ERS follows the law.
16 You know, you're coaching your witness.
17 Stop. Let's let him testify and we'll go
18 much quicker.

19 MR. POCHA: I'm preserving objections.
20 But you can ask the position of ERS. That
21 might be easier to say, what is ERS' position
22 or what has ERS done in response to the law.

23 A. With all that translation --

24 Q. Okay. Let me go at it this way: Are the
25 pension benefits that are paid to members of the



1 L. COLLAZO

2 defined benefit program the same in June 2017 as in
3 July 2017?

4 A. Yes. The pensioner who receives a
5 certain payment in June receives the same payment in
6 July.

7 Q. So can we agree that ERS' position is
8 that Joint Resolution 188 did not change the pension
9 benefits that were owed to members of the defined
10 benefit program?

11 A. There's nothing inside of that Joint
12 Resolution 188 that changes the benefits of the
13 defined benefit program.

14 Q. If you look at section 4, subsection 1 in
15 Joint Resolution 188, it says: The general fund
16 through the pay-as-you-go system shall assume any
17 payments that the three retirement systems cannot
18 make.

19 My question is: Does ERS know why the
20 general fund assumed those benefit payments
21 instead of just increasing the fund level to ERS
22 so ERS could continue to make the benefit payment?

23 MR. POCHA: Objection on privilege
24 grounds.

25 Exclude any privileged information.

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2 reform the system. It was insolvent. The
3 government make a definite decision, you know, to
4 guarantee the pension payments.

5 Q. Well, did ERS have an understanding of
6 why the government assumed the payments through the
7 general fund instead of just guaranteeing those
8 pension payments by increasing the funding to ERS?

9 MR. POCHA: Objection. Privilege.

10 You can answer if you exclude
11 privileged information.

12 A. By then, Law 3 already established those
13 increases, progressive increases to the employer
14 contributions. And on top of that, they added this
15 -- the uniform additional contribution. And those
16 funds weren't arriving as they should have been or
17 as they imagined they would.

18 So increasing the contributions even
19 more than what it had already been thought of --
20 what had already been established based on the
21 experience that had already been had.

22 We had to ask ourselves if it was
23 logical and reasonable, if it was a reasonable
24 idea to continue -- if it was a real -- if it was
25 a real option and if it was a reasonable option to



1 L. COLLAZO

2 continue increasing the employer contributions.

3 Q. Can we agree that whether the input into
4 the pension benefit is employer contributions or
5 Pay-Go fees, the money to pay that, the retirement
6 benefits, has to come from somewhere?

7 MR. POCHA: Objection to the form.

8 A. Yes.

9 Q. Okay. Before July of 2017, the employer
10 contributions were made in part by the Commonwealth,
11 correct?

12 A. The Commonwealth made their employer
13 contributions, but it didn't arrive into the ERS.

14 Q. After July of 2017, the general fund
15 assumed the payments that ERS could not take,
16 correct?

17 A. Correct.

18 Q. Okay. And the general fund is the
19 Commonwealth General Fund, correct?

20 A. Correct.

21 Q. Is ERS aware of any reason why the
22 general fund after July of 2017 can pay the defined
23 benefit pensioners that it could not pay in adequate
24 levels before July of 2017?

25 MR. POCHA: Objection. Vague.



1 L. COLLAZO

2 To the extent you can answer without
3 disclosing privileged information, you can
4 answer.

5 A. So are you asking why it would be able to
6 pay that in July and not before?

7 Q. Yes.

8 MR. POCHA: Same objections.

9 A. Because that's the way that it was
10 established, right, that it would start from the 1st
11 of July forward.

12 Q. Okay. Is ERS aware of any reason why the
13 general fund could not put adequate money into ERS
14 in order to fund the payment of benefits after July
15 1, 2017?

16 MR. POCHA: Same objection as before.

17 To the extent you can answer without
18 disclosing privileged information, please do.

19 A. Well, that was a determination made by
20 public policy, and I would like to just go back to
21 my previous answer. So to continue unsuccessfully
22 funding a system, that wasn't a consideration.

23 Q. Before Joint Resolution 188 went into
24 effect, ERS would use some of its income and assets
25 in part to pay debt service on the pension

1 L. COLLAZO

2 obligation bonds; is that correct?

3 A. When you say before, what date are you
4 referring to?

5 Q. Let's say May of 2017.

6 MR. POCHA: Objection. Vague as to
7 time within May.

8 A. In May? Are you asking if the debt was
9 being paid in May?

10 Q. Well, sure. Let's start with that
11 question.

12 A. May of 2017? Well, some payments were
13 being made from the pre-petition account.

14 Q. Did ERS have an understanding of what
15 effect Joint Resolution 188 would have on its
16 ability -- ERS' ability to pay debt service on the
17 ERS debt obligation bonds?

18 MR. POCHA: Objection. Privilege.

19 A. No. Definitely the possible effects were
20 discussed with our lawyers, from which I understand
21 is privileged information.

22 Q. Well, as of today, does ERS have enough
23 money to make interest payments on the pension
24 obligation bonds?

25 MR. POCHA: Objection to the form.



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2 A. To be able to be making those payments or
3 not is something that has to be determined by the
4 courts. And it's something that's being -- it's
5 under litigation at the moment. And it's in the
6 hands of our lawyers.

7 Q. What is the total asset value of ERS as
8 of today?

9 A. Approximately \$1 billion.

10 Q. And what assets -- or what assets
11 comprise that estimate?

12 A. Well, we have about 90 million in our
13 operational account. An estimate of the private
14 equity that we have is around 80 million. There is
15 a 92 million in the post-petition account that are
16 restricted.

17 And our loan portfolio is estimated
18 around 380 million right now, 109 million from our
19 liquidation of assets, which is also a restricted
20 account. Approximately -- that's it, basically,
21 yes. And there's other cash amounts and varying
22 amounts in other places, in other concepts.

23 Q. The loan portfolio you referred to, is
24 that loans that ERS made to its members?

25 A. To the best of my knowledge, the loans



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2 that the system offered to its members, which was
3 until 2015, 2016, where personal and cultural loans
4 are stored, and real estate -- mortgage.

5 Q. So the 380 million of the loan portfolio
6 are accounts receivable to ERS?

7 A. Yes.

8 Q. The private equity you mentioned for \$80
9 million, what is that?

10 A. Investments. System investments --
11 investments that were held by the system.

12 Q. Are those not liquid investments?

13 A. They're investments that are not liquid.

14 Q. Where did the \$90 million in the
15 operational account come from?

16 A. From the -- from the different accounts
17 that the system received until -- from the different
18 income that the system received until the date of
19 the 30th of June of 2017.

20 Q. So that would have been from the employer
21 contributions before June 30, 2017?

22 A. (In English) Employer, employee, loans,
23 disability insurance, and other concepts.

24 Q. Okay. Does ERS have any source of income
25 today?



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2 A. ERS? No, we don't receive any income.

3 Q. So today it has no revenues then,
4 correct?

5 MR. POCHA: Objection to the form.

6 A. Revenues, no.

7 Q. Before July 1, 2017, ERS did have income
8 and revenues, correct?

9 MR. POCHA: Objection to the form.

10 A. Before answering that question, let me
11 clarify something in terms of if ERS has any type of
12 income. Because since we still have private equity,
13 every once in a while we do receive distributions,
14 so then --

15 Q. Okay. So let me go back to income that
16 ERS receives today.

17 My understanding -- and correct me if
18 I'm wrong -- is that it, ERS, may receive some
19 investment income from its private equity
20 investments?

21 A. Uh-huh.

22 Q. But it does not receive, for example, any
23 contributions or revenues from municipalities or
24 public corporations; is that correct?

25 A. (In English) That's correct.



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2 Q. Now, before July 1st of 2017, ERS did
3 receive revenues from public corporations and
4 municipalities, correct?

5 MR. POCHA: Objection to the form.

6 A. Some concepts were deposited into our
7 operational account, employer/employee
8 contributions, loans.

9 Q. And as we talked about earlier, ERS is
10 aware that some of the pension bondholders claim a
11 security interest on ERS' future employer
12 contributions, correct?

13 A. We have knowledge of the claims.

14 Q. Okay. Did ERS form an understanding of
15 what effect Joint Resolution 188 would have on the
16 employer contributions that the ERS bondholders
17 claimed a security interest in?

18 MR. POCHA: Objection. Privileged.

19 You can answer yes or no, but exclude
20 any privileged information.

21 A. I believe I answered that question
22 before. And the possible effects that these could
23 have did come up with the lawyers, but that's
24 privileged information.

25 Q. So does ERS have a position on what



1 L. COLLAZO

2 effect Joint Resolution 188 had on the employer
3 contributions that the ERS bondholders claimed a
4 security interest in?

5 MR. POCHA: Objection. Asked and
6 answered. Same objections.

7 A. Yes. I already answered this.

8 Q. Okay. Well, what is the position ERS
9 has?

10 MR. POCHA: Objection. Asked and
11 answered.

12 MR. PAPEZ: I don't think so. I would
13 like an answer again, please.

14 MR. POCHA: Same objections.

15 A. I'm sorry. The position about?

16 Q. What is ERS' position about what effect
17 Joint Resolution 188 had on the employer
18 contributions that ERS bondholders claimed the
19 security interest in?

20 MR. POCHA: Same objections. Calls for
21 privileged information.

22 A. The position that ERS has or may have in
23 relation to the effects of this joint resolution
24 once again may be revealing privileged information.
25 The position that we had or that we may have does



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2 not emerge from a vacuum, but rather from the
3 conversations that we've had with our lawyers.

4 Q. Are you saying you cannot provide an
5 answer without disclosing privileged information?

6 A. Yes, correct.

7 Q. Does ERS have a position on whether Joint
8 Resolution 188 would adversely affect the pension
9 bondholders?

10 MR. POCHA: Same objections as before.

11 A. In that sense, ERS' position, which means
12 that if this resolution had not passed, it could
13 have had an adverse effect on our pensioners when
14 we're talking about priorities and public policy
15 and keeping in mind what the retirement system was
16 created for. Our focus was what was on what type of
17 adverse effects can be caused by not passing of that
18 resolution on our pensioners.

19 Q. Did ERS prioritize the payment of
20 pensioners over the payment of its obligations on
21 the pension obligation bonds?

22 MR. POCHA: Same objections as before.

23 Exclude privileged information?

24 A. Once again, I wouldn't say what could be
25 the rights of the bondholders, if there is any. The



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2 courts will determine that on their day in court,
3 and that's why we're in this process. Right? It's
4 not trying to go above or trying to go below. It
5 was a matter of prioritizing, right, the support and
6 the payment of benefits to our pensioner.

7 Q. And prioritizing those over the
8 obligations to pay debt service on the pension
9 obligation bonds?

10 A. What may have been the obligations, and
11 the contract says what it says and it establishes
12 what it establishes, and it says what is established
13 and that will be interpreted by the court.

14 (Whereupon, a memorandum was marked as
15 Exhibit 37 for identification, as of this
16 date.)

17 Q. I'm going to hand you what has been
18 marked as Exhibit 37. I'm handing you, Mr. Collazo,
19 a copy of the offering memorandum for one of the
20 series of pension bonds we've been referring to.

21 A. Yes.

22 Q. There are Bates numbers at the bottom. I
23 would ask you to turn to the page ending Bates
24 number 886.

25 A. Yes.



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2 Q. Do you see this is -- probably 2886. You
3 got it. There you go.

4 You see this is a copy of the bond
5 resolution that authorizes the issuance of the
6 pension obligation bonds?

7 A. Yes.

8 Q. All right. And I would like you to turn
9 to page Bates number 2901, and I'm going to refer
10 you to section 709, subparagraph 2.

11 Do you see that?

12 A. Yes.

13 Q. All right. It says: The system shall
14 oppose any attempt by the legislature of the
15 Commonwealth to reduce the employer's contribution
16 rate or to make any other change in the act or any
17 other relevant legislation that would have a
18 material adverse effect on the bondholders.

19 Did you see that, sir?

20 A. Yes.

21 Q. Did ERS make any effort to oppose the
22 passage of Joint Resolution 188?

23 A. Well, as I indicated in a previous
24 answer, certainly ERS -- we found out about this
25 resolution once it had been passed, once it had been



1 L. COLLAZO

2 approved.

3 Q. ERS did not make any effort to oppose
4 Joint Resolution 188, correct?

5 MR. POCHA: Objection. Asked and
6 answered.

7 A. Yes. I already answered that.

8 Q. And it's correct you didn't make any
9 efforts, correct?

10 MR. POCHA: Same objection.

11 A. I had responded that we didn't
12 participate, that we didn't make a commentary, that
13 we didn't see drafts, that we didn't see anything.

14 Q. Did ERS make any effort to oppose the
15 passage of Act 106 in August of 2017?

16 A. No, we made no effort to oppose it, since
17 that would mean that we would have -- that could
18 have potentially meant that we would have left the
19 thousands or hundreds of thousands of pensioners
20 unprotected.

21 Q. After Joint Resolution 188 went into
22 effect, did ERS inform anybody at the Commonwealth
23 that reductions in employer contributions may
24 adversely affect the ability of ERS to comply with
25 its obligations under the pension obligation bonds?

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2 MR. POCHA: Objection. Form.

3 A. No, not to the best of my knowledge. We
4 didn't inform -- we didn't make any commentary about
5 the text in this section.

6 Q. I'm not talking about the text in this
7 section. I'm just asking you whether ERS ever told
8 anybody at the Commonwealth that reducing the
9 employer contributions would adversely affect the
10 ability of ERS to comply with its obligations under
11 the bonds.

12 MR. POCHA: Objection to the form.

13 Exclude privileged conversations.

14 A. To the best of my knowledge, that wasn't
15 informed, and what could have been the obligations
16 under the protection of that section -- under that
17 section, not protection -- that comes out of
18 conversations with lawyers.

19 Q. You can set that aside.

20 I'm handing you what was marked last
21 week as Exhibit 25. The attachment -- I'm happy
22 to pass it out -- is this Exhibit 26. It was
23 marked separately last week. It's in Spanish.
24 Last week we did not have a translation of this
25 particular Bates number. We had a different



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2 Exhibit 38, because I don't read Spanish, but I know
3 you read both, so whichever you prefer.

4 First of all, I guess looking at
5 Exhibit 26, is that your signature on the third
6 page of the document?

7 A. So far as my knowledge -- to the best of
8 my knowledge, yes.

9 Q. Did you read this document before you
10 signed it?

11 A. Yes.

12 Q. And did you have an opportunity to
13 comment and review it and make any corrections you
14 would like to make before you signed it?

15 A. So far as I know, yes.

16 Q. Okay. Was the general purpose of this
17 document to describe how the Pay-Go system was going
18 to work?

19 A. What was that?

20 Q. Just the general purpose of this
21 document, was that to explain to various employers
22 how the Pay-Go system was going to work?

23 MR. POCHA: Objection.

24 Exclude any privileged information.

25 A. Yes, the purpose of this document was to



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2 inform the employers about the new Pay-Go system.

3 Q. All right. And in communicating to the
4 employers about the new Pay-Go system, did you try
5 to be accurate in your description of the system?

6 MR. POCHA: Objection to the form.

7 A. Yes. We always try to be as precise as
8 possible.

9 Q. You can set that aside.

10 (Whereupon, a presentation was marked
11 as Exhibit 39 for identification, as of this
12 date.)

13 Q. I'm handing you what I'm marking as
14 Exhibit 39.

15 A. Yes.

16 Q. Exhibit 39 is a presentation. The first
17 part of it is an English translation that we had
18 done and certified and the second half is the
19 Spanish version.

20 A. Yes, I notice that.

21 Q. Is this a presentation that you yourself
22 gave about the implementation of Pay-Go on or about
23 June 29, 2017?

24 MR. POCHA: I instruct the witness to
25 make sure he reads this document.



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2 A. Yes.

3 Q. Did you actually give the presentation to
4 people? You know, present it?

5 A. Yes, to the best of my knowledge and
6 according to my memory, we made a presentation for a
7 staff from corporations and from municipalities.

8 Q. Did you yourself put this together or did
9 people assist you in putting this together?

10 A. It was a collaboration amongst all the
11 staff.

12 Q. If you turn to Bates number 5064, please.

13 A. Yes.

14 Q. The first bullet there says: Payroll
15 reports that they send us through Web Remesa monthly
16 cannot include information on the employer
17 contribution for active employees.

18 My first question is what's Web Remesa?

19 A. Web Remesa is an application created by
20 the retirement system. Basically it's an electronic
21 file with which we match the money that we received
22 with detail from Web Remesa.

23 So we're going to receive 1 million
24 pesos, but we need to know who those million
25 dollars belong to. Like individually, like in

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2 loans, et cetera.

3 Q. When you say that those reports cannot
4 include information on the employer contributions
5 for active employees, why were you saying that?

6 A. That it couldn't be included because that
7 was no longer going to exist, the requirement for
8 this employer beginning in July 2012 moving forward.

9 Q. All right. The second bullet there says
10 the electronic file format is not going to change,
11 but the column for the employer contribution
12 information has to be at zero.

13 Is the reason the employer contribution
14 information has to be at zero also because as of
15 July 1, 2017, there would be no more employer
16 contributions?

17 A. For that same reason.

18 Q. Other than changing the employer
19 contribution information to zero, is there anything
20 else about this Web Remesa monthly report that
21 changed between June 2017 and July 2017?

22 A. To the best of my knowledge, yes. Now
23 the report was going to include the detail about the
24 Pay-Go.

25 Q. Okay. So other -- and the Pay-Go would



1 L. COLLAZO

2 be a new addition to this web report, correct?

3 A. Correct.

4 Q. Other than setting employer contribution
5 to zero and adding in information about the Pay-Go
6 charge, is there anything else this exchanged about
7 this Web Remesa report?

8 A. No, no other detail, to the best of my
9 knowledge.

10 (Whereupon, a Memorandum was marked as
11 Exhibit 40 for identification, as of this
12 date.)

13 Q. I'm going to hand you Exhibit 40. Just
14 for the record, last week we marked as an exhibit,
15 Exhibit 9, which was another copy of the memorandum
16 of understanding that was unsigned.

17 A. Yes.

18 Q. Exhibit 40, if you'll look, Mr. Collazo,
19 it appears it was signed by you.

20 A. Yes.

21 Q. My first question, sir, is: Do you know
22 whether this memorandum of understanding was ever
23 signed by the other two individuals on page 5?

24 A. To the best of my knowledge, no. No, it
25 wasn't signed.



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2 Q. My understanding of this MOU is that it
3 sort of established the different obligations
4 between the parties in terms of implementing Pay-Go.

5 My question is: Is that generally
6 correct?

7 A. To the best of my knowledge, it was, yes.
8 The purpose of the memorandum, which it actually
9 wasn't able to take effect or culminate --

10 Q. Did the parties generally follow this MOU
11 even though they didn't actually fully sign it?

12 MR. POCHA: Objection to the form.

13 A. To the best of my knowledge, the MOU was
14 circulated so the parties would sign it. But
15 afterwards, it kind of became diluted. A short time
16 afterwards, the Law 106 came into effect, to the
17 best of my knowledge, so then it became unnecessary
18 to sign the document.

19 Q. I'm going to use this as a bit of a guide
20 to talk about the implementation of the Pay-Go
21 system. If you look at paragraph 2A, it says: ERS
22 will continue to handle all administrative matters
23 for the proper calculation of retirement benefits
24 payable to beneficiaries.

25 A. Uh-huh.



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2 Q. Does ERS still do that today?

3 A. Yes.

4 Q. Did ERS also do that before June of 2017?

5 A. Yes.

6 Q. Look at subparagraph B. It says: ERS
7 will provide to AAFAF such information as AAFAF may
8 require to calculate the Pay-Go charge.

9 Does ERS still do that today?

10 A. Well, we don't do that by ourselves. ERS
11 doesn't do that by ourselves. As I mentioned, we
12 have the data for each pensioner, and we share that
13 with AAFAF. They review it and so then they give
14 the green light.

15 Q. All right. Paragraph 2C talks about ERS
16 submitting an invoice to each employer for the
17 Pay-Go charge.

18 My question is: Does ERS do that
19 today?

20 A. Yes, we continue invoicing employers.

21 Q. Okay. You can set that aside.

22 As far as you're aware, Act 106 did not
23 create any new pension benefits for members of
24 ERS; is that correct?

25 MR. POCHA: Objection. Calls for a



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2 legal conclusion.

3 A. What I can establish is that Law 106
4 created a new plan for contributions that were
5 definite -- defined contributions.

6 Q. Okay. So Act 106, one of the effects was
7 that employee contributions would be segregated into
8 separate individual accounts similar to 401K
9 accounts; is that right?

10 A. Correct.

11 Q. Whereas before 106 went into effect, the
12 employee contributions for the defined benefit
13 program were not in separate individual accounts,
14 correct?

15 A. Correct.

16 Q. As far as you know, did Act 106 create
17 any new defined benefit, pension benefits, for
18 retirees?

19 MR. POCHA: Same objection as before.

20 A. No.

21 Q. Joint Resolution 188 directed ERS to
22 liquidate its assets, correct?

23 A. Correct.

24 Q. I'm handing you Exhibit 28, which was
25 marked last week.

1 L. COLLAZO

2 Do you see this is a letter to you from
3 the executive director of AAFAF?

4 A. Yes.

5 Q. And he directs you in the second
6 paragraph to sell ERS' assets, correct?

7 A. To liquidate immediately all the liquid
8 investments from the retirement system.

9 Q. Okay. Did ERS do that in and around July
10 2017?

11 A. We liquidated our liquid investments.

12 Q. How much was the proceeds from that
13 liquidation?

14 A. Approximately 296 million.

15 Q. You'll see in the second to the last
16 paragraph the director of AAFAF instructs you to
17 transfer at least 190,480,000 of the proceeds from
18 the sale of the investment and to transfer that to
19 the treasury.

20 Do you see that?

21 A. Yes.

22 Q. And did ERS do that?

23 A. Yes.

24 Q. Okay.

25 A. We transferred the quantity that's



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2 requested in the letter.

3 Q. The remaining 150 or so million dollars
4 from the sale of the proceeds, what happened to
5 that?

6 A. Yes. When I mentioned the assets that
7 the system had before, I mentioned the quantity 109
8 million. That quantity we have inside of a
9 restricted account because we liquidated it, yes.
10 It's inside that account, that amount. That was --
11 that amount was not transferred to the Department of
12 the Treasury.

13 Q. Why was that amount not transferred to
14 the Department of Treasury?

15 MR. POCHA: Objection.

16 Exclude any privileged information.

17 You can answer if you can.

18 A. Well, certainly I received a letter to
19 send a first amount. I haven't received any other
20 instructions from my physical agent, which is AAFAF,
21 which would be to remit the remaining amount. And
22 it's important to mention that Resolution 188 also
23 doesn't set a set amount of time, a determined
24 amount of time to be able to transfer that. Right?
25 It's like we're waiting for instructions. Right?



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2 Q. Is that money in an interest-bearing bank
3 account?

4 A. It's generating interest, yes.

5 (Whereupon, a letter was marked as
6 Exhibit 41 for identification, as of this
7 date.)

8 Q. I'm going to hand you what I'm marking as
9 Exhibit 41. This one should be quick. Is this a
10 letter from you to an individual at Banco Popular
11 instructing him to transfer 190,480,000 from ERS to
12 the Department of Treasury?

13 A. Yes.

14 Q. And you transferred that 190,480,000
15 pursuant to this letter?

16 A. What letter? This one?

17 MR. PAPEZ: Let me withdraw that
18 question.

19 Q. As far as you know, did Mr. Garcia Alvira
20 transfer the 190,480,000 you requested to the
21 Department of Treasury?

22 A. To the best of my knowledge, the quantity
23 was transferred.

24 Q. I'm handing you what was marked as
25 Exhibit 18.



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2 You see it's a letter from the
3 Financial Oversight Board of Puerto Rico addressed
4 to Mr. Maldonado Gautier and to you?

5 A. Yes.

6 Q. Did you read this letter when it came in
7 about two months ago?

8 A. Yes.

9 Q. Okay. Have you had any conversations
10 with anybody at the Financial Oversight and
11 Management Board about this letter?

12 MR. POCHA: Interpose a privilege
13 objection.

14 It's a yes or no, excluding privileged
15 conversation.

16 A. With the members of the Financial
17 Oversight Board, no. But after having admitting
18 this letter, we did have some periodic meetings that
19 we've had for a long time with advisors and --
20 advisors from the board. They're implementation
21 meetings. Yes, we did discuss the reach of the
22 letter.

23 Q. Do you understand in general that the
24 letter was raising issues with the fact that many
25 public corporations and municipalities were not

1 L. COLLAZO

2 paying the full amount of Pay-Go fees that they
3 owed?

4 A. The letter speaks for itself. The text
5 is very clear. And yes, that's one of the topics
6 raised by the letter.

7 Q. If you see on page 3 of the letter
8 towards the bottom, it says: Accordingly, the
9 Retirement Board's designee or the managing entity
10 shall certify the debt of each delinquent entity and
11 request in writing -- and then it goes on and has
12 three bullet points that carry onto the fourth page.

13 My question is whether ERS has -- or
14 the Retirement Board has taken any of these
15 actions that were requested by The Financial
16 Oversight and Management Board?

17 A. Yes, at the level of the Board of Retired
18 -- at the level of the Retirement Board, we did.

19 Q. Okay. What did the Retirement Board do?

20 A. (In English) We sent letters to
21 municipalities and corporations that ask individual
22 employee contribution debt to pay they owe amount in
23 a ten-business-day period and advising them if they
24 didn't make the payment, we were going to record the
25 money through the CRIM in case of the municipalities



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2 and through the Department of Treasury in case of
3 the public corporations.

4 Q. Did you raise any issues about the Pay-Go
5 fees that had not been paid?

6 MR. POCHA: Interpose a scope
7 objection. I believe the witness is talking
8 about the Retirement Board.

9 A. (In English) Yes. We sent last week --
10 best of my knowledge, Thursday or Friday. We sent a
11 letter regarding, in this case, the Pay-Go charge
12 telling the employees, municipality and corporation,
13 to make either two things in a period of ten
14 business days, either to make the payment of the
15 amount owed or to engage in a payment plan with the
16 Retirement Board. So if they do not make any of
17 both alternative, then the same, we were going to
18 recover the amount owed through the CRIM in case of
19 municipality and through the Department of Treasury
20 in case of public corporations.

21 Q. Have you received any responses from any
22 of the municipalities or public corporations with
23 regard to your statements about the Pay-Go fees that
24 they owe?

25 A. (In English) Not yet, because the letter



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2 was sent -- or last Friday or this Monday or
3 yesterday.

4 Q. Okay.

5 A. (In English) Okay? So the letter that
6 we sent first were the letters of the individual
7 contribution, so the ten business days are running
8 right now regarding the Pay-Go debt.

9 Q. Let's take a quick break.

10 THE VIDEOGRAPHER: 3:41 p.m.

11 (Whereupon, there was a pause in the
12 proceeding.)

13 THE VIDEOGRAPHER: We are back on the
14 video record, 3:49 p.m.

15 (Whereupon, two documents were marked
16 as Exhibits 42 and 43 for identification, as
17 of this date.)

18 Q. Mr. Collazo, I am handing you Exhibits 42
19 and 43. 43 is a compilation of bank statements that
20 were produced to us by ERS for the pre-petition
21 segregated account.

22 Do you see that?

23 A. Yes.

24 Q. And I actually emailed Exhibit 42 and 43
25 to your counsel yesterday. Did you have a chance to

1 L. COLLAZO

2 review these documents before today?

3 A. Yes, I believe so.

4 Q. If you look at Exhibit 42, the first
5 paragraph notes that the current amount of funds as
6 of January 31, 2019, in the pre-petition segregated
7 account was \$2,588; is that correct?

8 A. To my understanding, yes.

9 Q. And have you had a chance to verify that?

10 A. To verify in what way?

11 Q. To confirm that was the amount?

12 A. Yes. Yes. We understand that, yes.

13 Q. And then paragraph 3 lists several
14 transfers into the pre-petition segregated account
15 between January 2017 and January 2019, correct?

16 A. Yes.

17 Q. Did you have a chance to confirm that
18 those amounts listed in paragraph 3 on Exhibit 42
19 were correct?

20 A. We verified them and we understand they
21 are correct.

22 Q. And then paragraph 4 refers to 16
23 withdrawals from the pre-petition segregated account
24 between January 2017 and January 2019.

25 My question is: Did you have a chance



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2 A. Yes, that's not just one withdrawal.
3 Well, there you have things that are included like
4 the payroll withdrawal, the operational expenses.

5 Q. Okay. Just general operating expenses
6 and payroll and things like that?

7 A. Yes. There might be other transactions,
8 too. The thing is you would have to go to the
9 detail of the transaction to see. Yes.

10 Q. I think you described this account
11 earlier as the operational account of the ERS?

12 A. Yes, yes.

13 Q. In general, what types of expenses does
14 ERS have today that it pays out of this operational
15 account? Just in general.

16 A. Professional expenses, payroll expenses.
17 Some benefits. Like the \$1,000, that might be
18 available for funeral expenses. That's established
19 by the law. Reimbursement for contributions, if the
20 person is entitled to that according to the
21 reimbursement law. Rental expenses for the
22 building. That would be it, basically.

23 Q. All right. One thing I wanted to ask you
24 about. In August of 2017 --

25 A. Yes.



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2 Q. -- there were some large deposits that if
3 you look in Exhibit 45, Bates number 2064 --

4 A. 26 --

5 Q. 2064. If you look on August 16th and
6 August 17th, there's three total transfers into this
7 account that total 190,480,000, which is the exact
8 amount of the withdrawal.

9 Why were you -- why was ERS receiving
10 190,480,000 in August of 2017?

11 MR. POCHA: Objection to the form.

12 A. To the best of my knowledge, once we
13 liquidated the investments, they're deposited into
14 the account and later they're transferred to
15 treasury. That's why you're seeing it here as a
16 deposit, those 190 million.

17 And here in July --

18 Q. In July, it was already paid to Treasury?

19 A. In July, it's liquidated. Let me put it
20 in perspective. You would have to go to the detail
21 of the transaction. You would have to see the
22 detail of the transaction, because I can't -- you
23 would have to go to the transfer. You would have to
24 go to the detail to see what's going on exactly.

25 Q. So as of today, you can't tell me what's



1 L. COLLAZO

2 going on with that \$190 million transfer in
3 mid-August of 2017?

4 MR. POCHA: Objection to the form.

5 A. That's the transfer that was made to the
6 Department of Treasury. It has to do with the
7 liquidation of the investments. Now, to be able to
8 give you the details about it, I would have to
9 verify it. The tract and the detail, I would have
10 to verify that.

11 Q. All right. Let me just ask a few more
12 questions in general. You can put this aside.

13 As of July --

14 MR. PAPEZ: Strike that.

15 Q. As of today, June 4, 2019, does ERS have
16 a right to receive employer contributions from
17 employers?

18 MR. POCHA: Objection. Calls for
19 privileged information.

20 But you can state whatever you
21 understand ERS' position to be, excluding
22 privileged information.

23 A. To the best of my knowledge, ERS did have
24 the right to receive employer contributions until
25 the date of the 30th of June of 2017.

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2 Q. Then after that date, ERS' position,
3 anyways, is it no longer is entitled to receive
4 employer contributions?

5 MR. POCHA: Same objection.

6 Exclude any privileged information.

7 A. Yes. After that date, the Pay-Go charges
8 already began, and they don't enter the same, but
9 rather they go to the Pay-Go account in the Treasury
10 Department.

11 Q. Has ERS ever attempted to place a value
12 on the Pay-Go fees that are due from employers after
13 June 30, 2017?

14 MR. POCHA: Objection to the form.

15 A. A value?

16 Q. Yes, a value.

17 A. The Pay-Go is a quantity. I don't know
18 what you mean by putting a value to that quantity or
19 that amount.

20 Q. As far as you know, Pay-Go fees are an
21 obligation for employers to pay monthly, sometime
22 into the future, correct?

23 A. Correct, yes.

24 Q. Has ERS ever attempted to say at any
25 point after July 1, 2017, that that future treatment

1 L. COLLAZO

2 of payments has a present value of X dollars on X
3 date?

4 MR. POCHA: Objection. Vague.

5 A. To be honest, I still haven't managed to
6 understand.

7 Q. You understand a future stream of revenue
8 can have a present value today?

9 A. Yes.

10 Q. Has ERS ever attempted to place a present
11 value on the future stream of Pay-Go fees?

12 MR. POCHA: Objection to the form.

13 A. Yes. Well, based on my knowledge, no.

14 MR. PAPEZ: Thank you. I pass the
15 witness.

16 EXAMINATION BY

17 JESSE GREEN, ESQ.:

18 Q. Good afternoon. I'm Jesse Green from
19 White & Case on behalf of the Puerto Rico Funds.

20 Earlier you testified that in early
21 2017, ERS was not being funded as it should have
22 been; is that correct?

23 MR. POCHA: Objection. The record
24 speaks for itself.

25 You can answer.



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2 A. Yes. The record speaks for itself. It's
3 well-known that the system was underfunded for
4 years.

5 Q. Now, there were statutory mechanisms in
6 place to force employers to comply with their
7 obligations to contribute to ERS, correct?

8 MR. POCHA: Objection. Vague.

9 A. Can you reformulate that. I would like
10 to hear the question or have a new question.

11 Q. Do you have an understanding what the ERS
12 Enabling Act is?

13 A. Yes, Law 447.

14 Q. Do you understand that there's a
15 provision in that act related to penalties to
16 employers?

17 A. Penalties for what?

18 Q. For not making employer contributions to
19 ERS?

20 A. Yes, to the best of my knowledge, there
21 are some dispositions to that effect.

22 Q. For example, the Enabling Act provides
23 for criminal penalties to heads of public
24 corporations and municipalities that fail to remit
25 payments to ERS, correct?

